

Order

Michigan Supreme Court
Lansing, Michigan

July 25, 2008

Clifford W. Taylor,
Chief Justice

136069

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

RENEE ELLIS,
Plaintiff-Appellee,

v

SC: 136069
COA: 275240
Wayne CC: 05-508314-CK

FARM BUREAU INSURANCE COMPANY,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the February 12, 2008 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

MARKMAN, J., dissents and states as follows:

Plaintiff's rental property was damaged as a result of arson. No one had been living there for several months because plaintiff was in the process of renovating it. Defendant, plaintiff's insurer, refused to cover the damage because the policy excluded fire damage when the property was "vacant or unoccupied beyond a period of 60 consecutive days." After a bench trial, the trial court concluded that defendant was liable. The Court of Appeals affirmed.

Plaintiff purchased the property on May 22, 2003. Within two-three weeks, the tenant moved out. No one else lived on the property between that time and the time of the fire on November 16, 2003. Thus, nobody was living at the property at the time of the fire, nobody had lived at the property for nearly six months before the fire, and nobody was planning on living there in the foreseeable future after the fire. I would hold that the property was "vacant or unoccupied beyond a period of 60 consecutive days," and would reverse the Court of Appeals.

TAYLOR, CJ., joins the statement of MARKMAN, J.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 25, 2008

Corbin R. Davis

Clerk